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July 14, 2003

VIA HAND DELIVERY

Mr. Vernon Williams, Secretary
Office the Secretary
Surface Transportation Board
1925 K Street, N.W., Room 700
Washington, D.C. 20423-0001

ENTERED
Office of Proceedings

JUL 18 2003

Part of
Public Record



RE: Finance Docket 34192, Hi Tech Trans, LLC -- Petition for
Declaratory Order -- Hudson County, NJ

Finance Docket No. 34192 (Sub-No. 1), Hi Tech Trans LLC --
Petition for Declaratory Order -- Rail Transload Facility at
Oak Island Yard, Newark, NJ

Dear Secretary Williams:

As you are aware, we are Special Counsel for the New Jersey Department of Environmental Protection ("NJDEP"). We have just received a letter dated July 10, 2003 ("July 10 letter") from counsel for Hi Tech, LLC, ("Hi Tech") which comments upon the reply filed on July 7, 2003 by NJDEP to the Petitions of Hi Tech for Declaratory Order and for Emergency Order and Other Relief. While NJDEP has elected not to file a reply to every letter that Hi Tech's counsel has submitted to the Board, on this occasion we are constrained to respond.

Notwithstanding Hi Tech's representation that its July 10 letter is intended only to "clear up [some] confusion," that correspondence is an impermissible reply to a reply. As such, the July 10 letter is prohibited by 49 C.F.R. § 1104.13(c).

Moreover, Hi Tech's latest representations are simply incorrect. In the first place, and as NJDEP has pointed out in its reply, Hi Tech has refused to comply with all state and local environmental regulation, has in fact been cited by NJDEP for these violations and contends that its facility is not subject to the State of New Jersey's environmental laws. (See, e.g., *In the Matter of Hi Tech Trans, LLC and David Stoller*, NJDEP Docket No. EA



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Mr. Vernon Williams, Secretary
July 14, 2003
Page 2

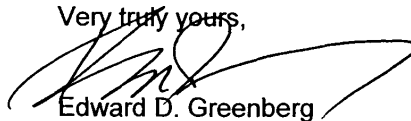
ID # PEA03001-U131; see also Exhibit Nos. 3 and 4 to NJDEP's Reply to the Hi Tech Petitions cited above). Second, and contrary to its July 10 letter, Hi Tech did request the Board to grant the same relief Hi Tech requested from the federal courts (which relief the courts have denied on several occasions) - - namely, a declaratory judgment that the State's laws are preempted and an injunction against the administrative proceeding pending before NJDEP in which Hi Tech was cited for various violations of the New Jersey's environmental laws.

The record before the Board on these issues is complete and it is inappropriate for Hi Tech to take liberties with the Board's rules in an attempt to have the last word. NJDEP accordingly requests that the July 10 letter be stricken and removed from the official docket for this proceeding.

We have enclosed an original and 11 copies of this letter and request that the extra copy be date-stamped and returned so that our files may properly reflect the filing.

If you have any questions concerning this, please do not hesitate to contact me.

Very truly yours,



Edward D. Greenberg

cc: Thomas J. Litwiler, Esq. (via facsimile)
James A. Fletcher, Esq. (via facsimile)
All parties of record (via regular mail)



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